

Adopted	Rejected
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## COMMITTEE REPORT

YES:	8
NO:	3

### MR. SPEAKER:

*Your Committee on* **Agriculture and Rural Development**, to which was referred  
Senate Bill 431, has had the same under consideration and begs leave to report the same  
back to the House with the recommendation that said bill **be amended** as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 environmental law and to make an appropriation.
- 4 Page 6, between lines 35 and 36, begin a new paragraph and insert:
- 5 "SECTION 11. IC 13-18-10-1.7 IS ADDED TO THE INDIANA
- 6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 7 [EFFECTIVE JULY 1, 2007]: **Sec. 1.7. (a) Except as provided in**
- 8 **subsection (b), a new confined feeding operation, including a**
- 9 **CAFO, may not be constructed if any part of a structure that is**
- 10 **part of the operation or of a manure treatment facility that is part**
- 11 **of the operation would be less than one (1) mile from the boundary**
- 12 **of any of the following:**
- 13 (1) A parcel of land on which any of the following is located:
- 14 (A) A school, other than a home school.
- 15 (B) A health facility licensed under IC 16-28.
- 16 (2) A municipality.

**(b) Subsection (a) does not apply to construction that:**

**(1) is an expansion of an existing confined feeding operation or CAFO; and**

**(2) is proposed by a person that has not committed a violation of:**

**(A) environmental management laws; or**

**(B) a rule adopted by the board;**

**as determined by the department."**

Page 7, line 19, delete "four thousand".

Page 7, line 19, strike "dollars".

Page 7, line 19, delete "(\$4,000)." and insert **"one dollar (\$1)."**

Page 8, delete lines 40 through 42.

Page 9, delete lines 1 through 11.

Page 9, line 12, delete "(f)" and insert **"(e)"**.

Page 9, line 13, delete "the fee determined by rule by the department as a" and insert **"one dollar (\$1)."**

Page 9, delete lines 14 through 16.

Page 9, line 17, delete "(g)" and insert **"(f)"**.

Page 9, line 36, strike "and".

Page 9, line 39, delete "determination." and insert "determination;

**and**

**(3) may not approve the application if the limitation in section 1.7(a) of this chapter applies to the facility that is the subject of the application."**

Page 10, line 25, delete "subsections (f) and (g)," and insert **"subsection (f),"**

Page 10, delete lines 36 through 39.

Page 10, line 40, delete "(g)" and insert **"(f)"**.

Page 11, line 21, delete "(h)" and insert **"(g)"**.

Page 11, line 21, delete "(i)," and insert **"(h),"**

Page 11, line 28, delete "(i)" and insert **"(h)"**.

Page 11, line 32, delete "(g)" and insert **"(f)"**.

Page 11, line 33, delete "(j)" and insert **"(i)"**.

Page 13, line 13, delete "The following fees payable" and insert **"An annual fee of one dollar (\$1) applies to confined feeding operations and CAFOs."**

Page 13, delete lines 14 through 42.

Page 14, delete lines 1 through 8.

1 Page 14, line 9, delete "(d)" and insert "(b)".

2 Page 14, between lines 12 and 13, begin a new paragraph and insert:

3 **"(c) The department shall deposit the fee revenue collected**  
 4 **under this section in the confined feeding operation inspection fund**  
 5 **established by section 2.8 of this chapter.**

6 SECTION 19. IC 13-18-10-2.8 IS ADDED TO THE INDIANA  
 7 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 8 [EFFECTIVE JULY 1, 2007]: **Sec. 2.8. (a) The confined feeding**  
 9 **operation inspection fund is established to permit the department**  
 10 **to inspect confined feeding operations, including CAFOs, to**  
 11 **determine compliance with this title.**

12 **(b) The department shall administer the fund. Money in the**  
 13 **fund is annually appropriated to the department for purposes of**  
 14 **this chapter.**

15 **(c) The expenses of administering the fund shall be paid from**  
 16 **money in the fund.**

17 **(d) The treasurer of state shall invest the money in the fund not**  
 18 **currently needed to meet the obligations of the fund in the same**  
 19 **manner as other public funds may be invested.**

20 **(e) Money in the fund at the end of a fiscal year does not revert**  
 21 **to the state general fund."**

22 Page 14, between lines 37 and 38, begin a new paragraph and insert:

23 "SECTION 21. IC 13-18-10-6.5 IS ADDED TO THE INDIANA  
 24 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 25 [EFFECTIVE JULY 1, 2007]: **Sec. 6.5. (a) The department shall**  
 26 **establish civil penalty matrices for the following categories:**

27 **(1) First time violations.**

28 **(2) Repeat violations.**

29 **(3) Intentional violators.**

30 **(b) The civil penalty matrices established in this section must**  
 31 **include the following factors to determine each penalty:**

32 **(1) The magnitude of the violation.**

33 **(2) The gravity of the effect of the violation.**

34 **(3) The preventability of the violation.**

35 **(4) The actions taken to prevent or correct the violation.**

36 **(c) The range of the penalties for each category of the civil**  
 37 **penalty matrix is as follows:**

38 **(1) First time violations, one hundred dollars (\$100) to**

1           twenty-five thousand dollars (\$25,000) for each day of  
2           violation.

3           (2) Repeat violations, five hundred dollars (\$500) to fifty  
4           thousand dollars (\$50,000) for each day of violation.

5           (3) Intentional violators, ten thousand dollars (\$10,000) to one  
6           hundred thousand dollars (\$100,000) for each day of violation.

7           SECTION 22. IC 13-18-10-6.7 IS ADDED TO THE INDIANA  
8           CODE AS A NEW SECTION TO READ AS FOLLOWS  
9           [EFFECTIVE UPON PASSAGE]: **Sec. 6.7. The department shall**  
10          **inspect a confined feeding operation, including a CAFO, at least**  
11          **one (1) time each year if the department determines that the owner**  
12          **or operator has committed a violation of:**

13               (1) environmental management laws; or

14               (2) a rule adopted by the board."

15          Page 15, delete lines 24 through 38, begin a new paragraph and  
16          insert:

17          "SECTION 25. IC 15-3-3-17.5 IS ADDED TO THE INDIANA  
18          CODE AS A NEW SECTION TO READ AS FOLLOWS  
19          [EFFECTIVE UPON PASSAGE]: **Sec. 17.5. (a) The state chemist**  
20          **shall adopt rules to establish a training and educational program**  
21          **for manure haulers and applicators concerning the application to**  
22          **land of manure generated from a confined feeding operation (as**  
23          **defined by IC 13-11-2-40), including concentrated animal feeding**  
24          **operations (as defined by IC 13-11-2-38.3).**

25               (b) The program established under subsection (a) must include  
26          the following topics concerning manure hauling and application:

27                   (1) Manure testing.

28                   (2) Soil testing.

29                   (3) Transportation.

30                   (4) Manure application and handling.

31                   (5) Any other topics determined by the state chemist.

32          SECTION 26. [EFFECTIVE JULY 1, 2007] (a) **Before November**  
33          **1, 2007, the state chemist shall submit a report concerning the**  
34          **status of the manure haulers and applicators program under**  
35          **IC 15-3-3-17.5, as added by this act, to the general assembly in an**  
36          **electronic format under IC 5-14-6.**

37               (b) **This SECTION expires July 1, 2008.**

38          SECTION 27. [EFFECTIVE UPON PASSAGE] (a) **As used in this**

1       **SECTION, "concentrated animal feeding operation" has the**  
2       **meaning set forth in IC 13-11-2-38.3.**

3       **(b) As used in this SECTION, "confined feeding operation" has**  
4       **the meaning set forth in IC 13-11-2-40.**

5       **(c) As used in this SECTION, "executive" has the meaning set**  
6       **forth in IC 36-1-2-5.**

7       **(d) Before January 1, 2008, the department of agriculture shall**  
8       **communicate with the executive of each county to:**

9               **(1) encourage the county to adopt; and**

10              **(2) assist the county in adopting;**

11       **an ordinance to address land use and zoning issues in the county**  
12       **related to concentrated animal feeding operations and confined**  
13       **feeding operations.**

14       **(e) This SECTION expires January 1, 2008."**

15       Renumber all SECTIONS consecutively.

(Reference is to SB 431 as reprinted February 26, 2007.)

**and when so amended that said bill do pass.**

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Representative Pflum